IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTIETH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

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WRIT PETITION NO : 14778 of 2004

Between:

1 Modiboina Penchalaiah, S/o. Vengaiah,
R/o. Thopugunta Village, Koluvoy (M), Nellore District.
2 Modiboina Venkata Swamy, S/o. Ramaiah,
R/o. Thopugunta Village, Koluvoy (M), Nellore District.
3 Modiboina Ramaiah, S/o. Adavaiah,
R/o. Thopugunta Village, Koluvoy (M), Nellore District.
4 Modiboina Chandraiah, S/o. Narasaiah,
R/o. Thopugunta Village, Koluvoy (M), Nellore District.
5 Modiboina Ramanamma, W/o. Seenaiah,
R/o. Thopugunta Village, Koluvoy (M), Nellore District.

..... PETITIONER(S)

AND

1The District Collector, Nellore.
2The M.R.O. Kaluvoy (M), Nellore District.
3The Panchayat Secretary, Thopugunta Gram Panchayat,
Kaluvoy Mandal, Nellore District.
4Yeturu Narasaiah,
Thopugunta Village, Kaluvoy Mandal, Nellore District.
5Perumalla Gangaiah, S/o. Thirupaiah,
Thopugunta Village, Kaluvoy Mandal, Nellore District.
6Pallala Ramanamma, W/o. Ramanaiah,
Thopugunta Village, Kaluvoy Mandal, Nellore District.

7Shaik Kalesha Saheb, S/o. Hassan Saheb,
Thopugunta Village, Kaluvoy Mandal, Nellore District.
8Golla Singaiah, S/o. Pitchaiah,
Thopugunta Village, Kaluvoy Mandal, Nellore District.
9Perumalla Rosamma, W/o. Thirupaiah,
Thopugunta Village, Kaluvoy Mandal, Nellore District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ order or direction more particularly one in the nature of writ of Mandamus declaring the action of the respondents 1 to 3 in not taking action to evicting the illegal occupants i.e., respondents 4 to 9 in the road margin in front of the house site land of the petitioners in patta No.285 in Sy.No.253-3 at Thopugunta (v), Kaluvoy (M), Nellore District as illegal, arbitrary, unjust, consequently directing the respondents 1 to 3 to evict the illegal occupants i.e., respondents 4 to 9 forthwith.

Counsel for the Petitioners:MR.G.JAGADESWAR

Counsel for the Respondent Nos.1 to 3: GP FOR REVENUE

The Court at the stage of admission made the following ORDER:

The petitioners claim to be owners of Ac.0.50 cents of land in patta No.285 in Survey

No.253-3 situated beside the road, which leads to Balajiraopet Village from Thopugunta village. There is some margin of 6 to 8 feet land in between the road and the said land. The respondent Nos. 4 to 9 encroached into the said margin, which resulted depriving the petitioners right to make a way to their land. In view of the same, they made a representation to the first respondent-District Collector, Nellore, who in turn, directed the second respondent-Mandal Revenue Officer, Kaluvoy to submit the necessary report. On the instructions of the first respondent, the second respondent submitted a report and in turn, he directed the third respondent-Panchayat Secretary, Gram Panchayat, Thopugunta, to pass a resolution regarding the road margin whether it belongs to Gram Panchayat or Revenue Department. But so far, no resolution has been passed by the third respondent. In view of the same, the petitioners moved this Court by way of present writ petition for evicting the respondent Nos. 4 to 9 from the alleged encroachment.

Once respondent Nos. 1 to 3 have already acted upon the representation filed by the petitioners, it is for them

to take appropriate steps in the event, if there is any encroachment into the road margin as alleged. If the petitioners rights are affected, proper course for them is to move the competent civil court to safeguard their rights and for due removal of the encroachment if any, made by the respondent Nos. 4 to 9. Merely because, on the representation made by the petitioners, if any report is called for, that will not give rise to a cause of action for filing a writ petition and at this stage, this Court cannot go into the disputed questions of fact on such encroachment, if any.

This writ petition is accordingly dismissed. No costs.

20th AUGUST, 2004.

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To

1 The District Collector, Nellore.
2 The M.R.O. Kaluvoy (M), Nellore District.
3 The Panchayat Secretary, Thopugunta Gram Panchayat,
Kaluvoy Mandal, Nellore District.
4 Two CCs to the Government Pleader for Revenue, A.P.High Court Buildings,

Hyderabad.

5 Two CD copies.